

**CHAPTER NO. 860**

**HOUSE BILL NO. 3159**

**By Representative Montgomery**

**Substituted for: Senate Bill No. 3086**

**By Senator Atchley**

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 1, Part 6, relative to the probation of local school systems.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1-602, is amended by deleting subsection (a) in its entirety, and by substituting instead a new subsection (a):

(a) By September 1 of each year, the commissioner of education shall recommend for approval to the state board a listing of all schools to be placed on notice or probation for failure to make adequate progress in meeting the rules, regulations and performance standards of the state board. If a school system is deemed by the commissioner as not carrying out its responsibilities to a school or schools on notice or probation for technical or other assistance that may ensure that a school meet or exceed the performance standards, or the standards set forth in Section 49-1-210, the system may be included in the recommendation to the state board to be placed on notice or probation. Schools or school systems on notice or probation shall abide by guidelines established by the commissioner for the purpose of improving student performance.

SECTION 2. Tennessee Code Annotated, Section 49-1-602, is further amended by deleting subsection (b) in its entirety, and by substituting instead a new subsection (b):

(b) Such status shall not impair the credits earned by students in that school system or school.

SECTION 3. Tennessee Code Annotated, Section 49-1-602, is further amended by deleting subsection (c) in its entirety, and by substituting instead a new subsection (c):

(c)

(1) During the year on notice, the department of education and the office of education accountability established in Section 4-3-308 will jointly study any school and/or school system placed on notice. The study will include findings on how the school and/or school system can meet the performance standards for adequate yearly progress. The commissioner of education shall have the authority to:

(A) Approve the allocation of state discretionary grants to the school and or school system; and/or

(B) Provide technical assistance to the school and/or school system through an outside expert.

(2) The director of each local education agency serving schools placed on notice shall have responsibility for the following actions:

(A) Prompt notification to parents of students of such identification; and

(B) Revision of school improvement plans.

SECTION 4. Tennessee Code Annotated, Section 49-1-602, is further amended by deleting the subsection (d) in its entirety, and by substituting instead a new subsection (d):

(d) If a system or school does not meet the standards for adequate yearly progress by the end of the first year on notice, the system or school may be placed on probation.

(1) During the first year a system or school is on probation, the commissioner of education shall have the authority to:

(A) Approve a school system's allocation of financial resources to a system or school on probation; and

(B) Appoint a local community review committee to approve and monitor the school improvement plan.

(2) The director of each local education agency serving schools placed on probation shall have responsibility for the following actions:

(A) Prompt notification to parents of students of such identification;

(B) Implementation of performance contracts for the principal;

(C) Provision for remediation services for students;

(D) Notification to parents of their option to transfer their children to another public school within the system; and

(E) Revision of school improvement plans to incorporate joint study findings.

SECTION 5. Tennessee Code Annotated, Section 49-1-602, is further amended by adding a new section (e).

(e) If a school or school system does not meet the standards by the end of the first year on probation, the system or school may be placed on probation for a second year.

(1) During the second year on probation, the commissioner of education shall have the authority to:

(A) Approve a school or system's allocation of financial resources to schools on probation;

(B) Approve a school or system's allocation of personnel resources to the schools placed on probation; and

(C) Present options for a school or system to plan for alternative governance which may include:

(i) contracting with an institution of higher education for operation of the school;

(ii) removing the school from the jurisdiction of the school system and placing the school under the jurisdiction of the department of education; or

(iii) restructuring the school as a public charter school should the general assembly enact separate legislation outside the parameters of this act that authorizes the establishment of public charter schools.

(2) The director of each local education agency serving schools placed on probation shall have the responsibility for the following actions:

(A) Prompt notification to parents of students of such identification;

(B) Implementation of performance contracts for the principal;

(C) Provision for remediation services for students;

(D) Notification to parents of their option to transfer their children to another public school within the system; and

(E) Preparation of a plan for alternative governance from the options provided by the commissioner of education.

SECTION 6. Tennessee Code Annotated, Section 49-1-602, is further amended by adding a new section (f).

(f) If after two (2) consecutive years on probation, a school or system does not make progress to meet the standards for adequate yearly progress, the commissioner of education shall have the authority to:

(1) Assume any or all powers of governance for the school or system, provided, however that in the case where the commissioner assumes governance of a school or system the LEA will continue to be accountable for the match required by the BEP funding formula for students served; and/or

(2) Recommend to the state board that the director of the local education agency be replaced; and/or

(3) Recommend to the state board that some or all of the local board of education members be replaced.

(4) If the state board concurs with the recommendation, the commissioner shall order the removal of some or all of the board members and/or director of schools and shall declare a vacancy in the office or offices. Vacancies on the board shall be filled by the local legislative body until the next general election for which candidates have

time, under law, to qualify and the candidate so elected qualifies to hold the office as provided by law or for the remainder of the term if no such election occurs during the remainder of the term. If the entire board of a special school district is removed, the commissioner shall appoint three (3) responsible citizens of the district to serve on the board, and they shall be authorized to appoint persons to fill the remaining vacancies. Any person selected to fill a vacancy shall serve the remainder of the term. Vacancies in the office of director of schools are filled in accordance with the provisions of law. Any director of schools or board member removed under this section is ineligible for appointment or election to such office for the remainder of such person's term and for one (1) full term thereafter.

SECTION 7. Tennessee Code Annotated, Section 49-1-602, is further amended by adding a new section (g).

(g)

(1) An appeal of the decision to remove a director or board member shall be to chancery court of Davidson County.

(2) The chancellor's review shall be confined to whether or not the decision was made in accordance with the procedures authorized by this section.


SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: June 30, 2002**

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 15<sup>th</sup> day of July 2002**

  
DON SUNDQUIST, GOVERNOR